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10/517,457

12/08/2004

Jens-Peter Seher

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03/15/2006

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

RAYMOND, EDWARD

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/517,457

Applicant(s)

SEHER ET AL.

Examiner

Edward Raymond

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-11 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date 20051128.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
2. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1, 2, 4-9 and 11** are rejected under 35 U.S.C. 102(e) as being anticipated by Chung et al.

Chung teaches an aptitude test system which is suitable for testing an object (1) in respect of its aptitude for an actual intended application (Claim 1: see paragraphs 42 and 43), which system includes: at least one object (1) which is provided with a data carrier (2) on which data associated with the object (1) is stored (Claim 1: see paragraph 47), and a test device (5) which includes a reading apparatus (6) whereby the data of the data carrier (2) can be transferred to a computer (7) which is coupled to

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the reading apparatus (6) (Claim 1: see paragraph 46), the data being or including aptitude data which characterizes one or more permissible applications for the associated object (1) (Claim 1: see paragraph 46), the computer (7) having access to actual application data which characterizes a concrete application envisaged for the relevant object (1) (Claim 1: see paragraph 42), the computer (7) evaluating the aptitude data of the relevant object (1) (Claim 1: see paragraph 47) and the current application data for the aptitude testing of the relevant object and outputting a release signal when the object (1) is suitable for the intended application (Claim 1: see paragraph 50) and/or an alarm signal when the object (1) is not suitable for the intended application (Claim 1: see paragraph 50).

Chung teaches an aptitude test system characterized in that the test device (5) is coupled to a processing device (12) which processes the relevant object (1) (Claim 2: see paragraph 47) in dependence on the result of the aptitude test (Claim 2: see paragraph 50).

Chung teaches an aptitude test system characterized in that the processing device (12) invalidates when the computer (7) outputs the alarm signal (Claim 4: see paragraph 50).

Chung teaches an aptitude test system characterized in that the test device (5) and the processing device (12) include an output unit (9,10, 11) (Claim 5: see Figure 9) which provides the user of the test device (5) with an acoustic indication of the result of the aptitude test (Claim 5: see paragraph 50).

Chung teaches an aptitude test system characterized in that the data carrier (2) is formed by a one-dimensional or two-dimensional bar code and that the reading apparatus (6) is formed by an optical bar code reading apparatus (6) (Claim 6: see paragraph 206).

Chung teaches an aptitude test system characterized in that the aptitude data includes a date of expiry of the object (1) (Claim 7: see paragraph 43) and that the application data includes the current date, the computer (7) generating the alarm signal when the date of expiry of the object (1) has been passed when the aptitude test is carried out (Claim 7: see paragraph 50).

Chung teaches an aptitude test system characterized in that the object (1) is a medicament (1") and/or a combination of medicaments (1""), the aptitude data includes a date of expiry of the medicament (1") or the combination of medicaments (Claim 8: see paragraph 43) (1"" the computer (7) generates the alarm signal when the medicament (1") is not suitable for administration to the intended patient (Claim 8: see paragraph 50).

Chung teaches an aptitude test system characterized in that the computer (7) has access to a database (21) (Claim 9: see paragraph 47) in which the patient data of a plurality of patients is stored, and that the computer (7) can receive, via an input unit (19, 20) and the reading apparatus (6) (Claim 9: see Figure 9), a patient identification code of the actual patient intended to be administered the medicament (1") (Claim 9: see paragraph 43) said patient identification code enabling the computer (7) to access

the patient data of the relevant patient in the database (21) (Claim 9: see paragraph 47).

Chung teaches an aptitude test system characterized in that the test device (5) is a cash register or is integrated in such a cash register (Claim 11: see paragraph 39: The Examiner notes that the station is equivalent to a cash register), the aptitude data is formed by a date of expiry associated with the relevant object (1) (Claim 11: see paragraph 43), the computer (7) generates the alarm signal when the date of expiry has been passed and/or when it is about to pass and/or when it will be passed within the minimum period of keeping quality (Claim 11: see paragraph 50).

***Claim Rejections - 35 USC § 103***

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Chung in view of Boecker et al.

Chung teaches all of the features of the claimed invention, except an aptitude test system characterized in that the object (1) is a cartridge (1') intended for carrying

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out point of care diagnosis of a body fluid sample taken from a patient. Boecker et al. teach a point of care diagnosis device (Claim 10: see Figure 1). It would have been obvious to the person having ordinary skill in the art at the time the invention was made to modify Chung to use a point of care sampling device, as taught by Boecker et al., because this would allow for the determination of the current health of the patient prior to dispensing pharmaceutical products.

***Allowable Subject Matter***

7. **Claim 3** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

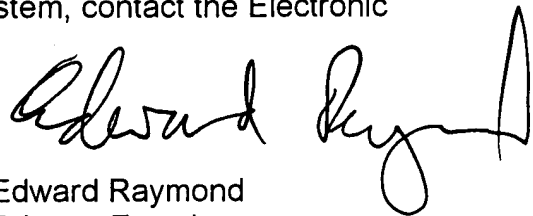
***Contact Information***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Raymond whose telephone number is 571-272-2221. The examiner can normally be reached on M-F 8:30-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Edward Raymond", with a stylized, elongated final stroke.

Edward Raymond  
Primary Examiner  
Art Unit 2857

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